

CASREF,STAYED

**U.S. District Court
District of Maryland (Baltimore)
CIVIL DOCKET FOR CASE #: 1:09-cv-00218-WMN**

Potomac Navigation, Inc. v. United States Environmental
Protection Agency
Assigned to: Judge William M Nickerson
Referred to: Magistrate Judge Stephanie A Gallagher
(Settlement)

Date Filed: 02/02/2009
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Related Cases: 1:07-cv-00602-WMN

1:08-cv-00717-WMN

Cause: 05:552 Freedom of Information Act

Plaintiff

Potomac Navigation, Inc.

represented by **Alexander M Giles**
Semmes Bowen and Semmes PC
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Baltimore, MD 21201
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

**United States Environmental Protection
Agency**

represented by **Larry D Adams**
Office of the United States Attorney
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Date Filed	#	Docket Text
02/02/2009	<u>1</u>	COMPLAINT against United States Environmental Protection Agency (Filing fee \$ 350. Receipt # 14637031465), filed by Potomac Navigation, Inc.. (Attachments: # <u>1</u> Civil Cover Sheet)(ljs, Deputy Clerk) (Entered: 02/03/2009)
02/03/2009	<u>2</u>	Summons Issued 60 days as to United States Environmental Protection Agency, U.S. Attorney and U.S. Attorney General (raf, Deputy Clerk) (Entered: 02/03/2009)
02/03/2009		Deficiency Notice as to Potomac Navigation, Inc.. Your Local Rule 103.3 disclosure statement has not been filed. The Statement must be filed by 2/12/2009 (ljs, Deputy Clerk) (Entered: 02/03/2009)
02/09/2009	<u>3</u>	Local Rule 103.3 Disclosure Statement by Potomac Navigation, Inc.. (Giles, Alexander) (Entered: 02/09/2009)
03/02/2009	<u>4</u>	AFFIDAVIT of Service for Summons and Complaint served on Anita Kizzie on 02/06/2009, filed by Potomac Navigation, Inc.. (Giles, Alexander) (Entered: 03/02/2009)
03/02/2009	<u>5</u>	AFFIDAVIT of Service for Summons and Complaint served on Eric Holder, Jr. on 02/20/2009, filed by Potomac Navigation, Inc.. (Attachments: # <u>1</u> Exhibit)(Giles, Alexander) (Entered: 03/02/2009)

03/02/2009	<u>6</u>	AFFIDAVIT of Service for Summons and Complaint served on Patricia K. Hirsch on 02/19/2009, filed by Potomac Navigation, Inc.. (Attachments: # <u>1</u> Exhibit)(Giles, Alexander) (Entered: 03/02/2009)
03/19/2009	<u>7</u>	Consent MOTION for Extension of Time by United States Environmental Protection Agency Responses due by 4/6/2009 (Adams, Larry) (Entered: 03/19/2009)
03/23/2009	8	PAPERLESS ORDER granting <u>7</u> Motion for Extension of Time. Signed by Judge William M Nickerson on 3/23/09. (cae, Chambers) (Entered: 03/23/2009)
04/10/2009	<u>9</u>	MOTION to Dismiss <i>Because Matter is Moot</i> by United States Environmental Protection Agency Responses due by 4/27/2009 (Attachments: # <u>1</u> Declaration of Gregory C. Snyder, # <u>2</u> Exhibit 1, # <u>3</u> Exhibit 2, # <u>4</u> Exhibit 3, # <u>5</u> Exhibit 4, # <u>6</u> Exhibit 5, # <u>7</u> Text of Proposed Order)(Adams, Larry) (Entered: 04/10/2009)
04/26/2009	<u>10</u>	Consent MOTION for Extension of Time to File Response/Reply as to <u>9</u> MOTION to Dismiss <i>Because Matter is Moot</i> by Potomac Navigation, Inc. Responses due by 5/13/2009 (Giles, Alexander) (Entered: 04/26/2009)
04/27/2009	11	PAPERLESS ORDER in case 1:09-cv-00217-WMN; granting (10) Motion for Extension of Time to File Response/Reply (Responses due by 5/14/2009, Replies due by 5/11/2009.) in case 1:09-cv-00218-WMN. Signed by Judge William M Nickerson on 4/27/09. Associated Cases: 1:09-cv-00218-WMN, 1:09-cv-00217-WMN(cae, Chambers) (Entered: 04/27/2009)
04/29/2009	<u>12</u>	RESPONSE in Opposition re <u>9</u> MOTION to Dismiss <i>Because Matter is Moot</i> filed by Potomac Navigation, Inc.. Replies due by 5/13/2009. (Giles, Alexander) (Entered: 04/29/2009)
05/11/2009	<u>13</u>	MOTION for Extension of Time by United States Environmental Protection Agency Responses due by 5/28/2009 (Adams, Larry) (Entered: 05/11/2009)
05/11/2009	14	PAPERLESS ORDER granting <u>13</u> Motion for Extension of Time. Signed by Judge William M Nickerson on 5/11/09. (cae, Chambers) (Entered: 05/11/2009)
05/19/2009	<u>15</u>	MOTION for Extension of Time by United States Environmental Protection Agency Responses due by 6/5/2009 (Adams, Larry) (Entered: 05/19/2009)
05/21/2009	16	PAPERLESS ORDER granting <u>15</u> Motion for Extension of Time until June 4, 2009 to file responsive pleading. Signed by Judge William M Nickerson on 5/21/09. (caes, Chambers) (Entered: 05/21/2009)
06/04/2009	<u>17</u>	REPLY to Response in Opposition to <u>9</u> Motion to Dismiss filed by United States Environmental Protection Agency. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> attachment 1, # <u>3</u> attachment 2, # <u>4</u> attachment 3, # <u>5</u> attachment 4, # <u>6</u> attachment 5, # <u>7</u> Exhibit 2, # <u>8</u> Exhibit 3)(Adams, Larry) Modified on 6/5/2009 (mcb, Deputy Clerk). (Entered: 06/04/2009)
06/22/2009	<u>18</u>	Consent MOTION for Extension of Time to File Response/Reply to EPA's Motion for Summary Judgment by Potomac Navigation, Inc. Responses due by 7/9/2009 (Giles, Alexander) (Entered: 06/22/2009)
06/23/2009	19	PAPERLESS ORDER granting <u>18</u> Motion for Extension of Time to File Response/Reply. Signed by Judge William M Nickerson on 6/23/09. (caes, Chambers) (Entered: 06/23/2009)
07/07/2009	<u>20</u>	RESPONSE in Opposition to <u>9</u> MOTION for Summary Judgment and/or SURREPLY in Opposition to Motion to Dismiss filed by Potomac Navigation, Inc. Replies due by 7/21/2009. (Attachments: # <u>1</u> Fitzgerald Affirmation)(Giles, Alexander) (1 paper copy submitted to Chambers on 7/9/09) Modified on 7/9/2009 (mcb, Deputy Clerk). Modified on 8/21/2009 (mcb, Deputy Clerk). (Entered: 07/07/2009)
07/07/2009	<u>21</u>	Consent MOTION for Leave to File Memorandum in Opposition to Motion for Summary Judgment and/or Sur-Reply in Further Opposition to Motion to Dismiss Out of Time by Potomac Navigation, Inc. Responses due by 7/24/2009 (Attachments: # <u>1</u> Text of Proposed Order)(Giles, Alexander) (Entered: 07/07/2009)

07/09/2009	<u>22</u>	PAPERLESS ORDER granting <u>21</u> Motion for Leave to File Memorandum in Opposition to Motion for Summary Judgment, etc. Signed by Judge William M Nickerson on 7/9/09. (cae, Chambers) (Entered: 07/09/2009)
07/17/2009	<u>23</u>	Consent MOTION for Extension of Time by United States Environmental Protection Agency Responses due by 8/3/2009 (Adams, Larry) (Entered: 07/17/2009)
07/20/2009	<u>24</u>	PAPERLESS ORDER granting <u>23</u> Motion for Extension of Time. Signed by Judge William M Nickerson on 7/20/09. (cae, Chambers) (Entered: 07/20/2009)
08/20/2009	<u>25</u>	MOTION for Extension of Time by United States Environmental Protection Agency Responses due by 9/8/2009 (Adams, Larry) (Entered: 08/20/2009)
08/21/2009	<u>26</u>	PAPERLESS ORDER granting <u>25</u> Motion for Extension of Time. Signed by Judge William M Nickerson on 8/21/09. (cae, Chambers) (Entered: 08/21/2009)
08/21/2009	<u>27</u>	RESPONSE to <u>20</u> Response in Opposition to Motion for Summary Judgment and/or SURREPLY in further Opposition to Motion to Dismiss, filed by United States Environmental Protection Agency. (Adams, Larry) Modified on 8/21/2009 (mcb, Deputy Clerk). (Entered: 08/21/2009)
09/11/2009	<u>28</u>	Request for Hearing <i>as to EPA's Motion to Dismiss and related Motion for Summary Judgment</i> . (Attachments: # <u>1</u> Lloyd's List Article – August 26, 2009)(Giles, Alexander) (Entered: 09/11/2009)
09/17/2009	<u>29</u>	ORDER re: Hearing on Motions to Dismiss and for Summary Judgment. Signed by Judge William M Nickerson on 9/17/09 Associated Cases: 1:09-cv-00217-WMN, 1:09-cv-00218-WMN(cag, Deputy Clerk) (Entered: 09/17/2009)
12/15/2009	<u>30</u>	MEMORANDUM. Signed by Judge William M Nickerson on 12/15/09. (bmh, Deputy Clerk) (Entered: 12/15/2009)
12/15/2009	<u>31</u>	ORDER denying Defendant's Motion to Dismiss in WMN-09-217; and denying <u>9</u> Defendant's Motion to Dismiss in WMN-09-218. Signed by Judge William M Nickerson on 12/15/09. (bmh, Deputy Clerk) (Entered: 12/15/2009)
01/15/2010	<u>32</u>	ANSWER to <u>1</u> Complaint by United States Environmental Protection Agency.(Adams, Larry) (Entered: 01/15/2010)
01/21/2010	<u>33</u>	SCHEDULING ORDER: Status Report due by 6/7/2010.. Signed by Judge William M Nickerson on 1/21/10. (bmh, Deputy Clerk) (Entered: 01/21/2010)
02/07/2010	<u>34</u>	Joint Correspondence re: Request for Extension of Scheduling Order Deadlines (Attachments: # <u>1</u> Scheduling Order – WMN-09-CV-217)(Giles, Alexander) (Entered: 02/07/2010)
02/09/2010	<u>35</u>	PAPERLESS ORDER GRANTING Joint Request fo Extension of Time re <u>34</u> Miscellaneous Correspondence. Signed by Judge William M Nickerson on 2/9/10. (cae, Chambers) (Entered: 02/09/2010)
02/16/2010	<u>36</u>	Joint Correspondence re: ADR and No Consent to Proceed before U.S. Magistrate Judge (Giles, Alexander) (Entered: 02/16/2010)
03/08/2010	<u>37</u>	(FILED IN ERROR) AFFIDAVIT of Service for Subpoena for Production of Documents <i>on Kimley-Horn and Associates</i> served on Ken Dierks on 02/23/2010, filed by Potomac Navigation, Inc.. (Giles, Alexander) Modified on 3/12/2010 (bmh, Deputy Clerk). (Entered: 03/08/2010)
03/08/2010	<u>38</u>	(FILED IN ERROR) AFFIDAVIT of Service for Subpoena for Deposition of <i>Michael Iwashchenko</i> served on Michael Iwashchenko on 02/23/2010, filed by Potomac Navigation, Inc.. (Giles, Alexander) Modified on 3/12/2010 (bmh, Deputy Clerk). Modified on 3/12/2010 (bmh, Deputy Clerk). (Entered: 03/08/2010)
03/11/2010	<u>39</u>	ORDER returning pleadings to Counsel re: <u>38</u> Affidavit of Service filed by Potomac Navigation, Inc. and <u>37</u> Affidavit of Service filed by Potomac Navigation, Inc.. Signed by Judge William M Nickerson on 3/9/10. (bmh, Deputy Clerk) (Entered: 03/12/2010)

06/15/2010	<u>40</u>	Joint Correspondence re: Request for Modification of Scheduling Order (Attachments: # <u>1</u> Text of Proposed Order)(Giles, Alexander) (Entered: 06/15/2010)
06/17/2010	<u>41</u>	REVISED SCHEDULING ORDER: Status Report due by 11/16/2010.. Signed by Judge William M Nickerson. (bmh, Deputy Clerk) (Entered: 06/17/2010)
11/17/2010	<u>42</u>	Status Report Submitted by Potomac Navigation, Inc. (Attachments: # <u>1</u> Text of Proposed Order)(Giles, Alexander) (Entered: 11/17/2010)
11/18/2010	<u>43</u>	SCHEDULING ORDER staying case until 1/28/11; setting deadline for joint status report. Signed by Judge William M Nickerson on 11/18/10. Associated Cases: 1:09-cv-00217-WMN, 1:09-cv-00218-WMN(das, Deputy Clerk) (Entered: 11/19/2010)
01/19/2011	<u>44</u>	ORDER STAYING case and EXTENDING discovery. Signed by Judge William M Nickerson on 1/19/11. Associated Cases: 1:09-cv-00217-WMN, 1:09-cv-00218-WMN(hmls, Deputy Clerk) (Entered: 01/19/2011)
02/15/2011	<u>45</u>	SCHEDULING ORDER STAYING litigation and EXTENDING discovery. Signed by Judge Richard D Bennett on 2/15/11. Associated Cases: 1:09-cv-00217-WMN, 1:09-cv-00218-WMN(das, Deputy Clerk) (Entered: 02/15/2011)
04/15/2011	<u>46</u>	Status Report Submitted by Potomac Navigation, Inc. (Giles, Alexander) (Entered: 04/15/2011)
06/14/2011	<u>47</u>	Status Report Submitted by Potomac Navigation, Inc., United States Environmental Protection Agency (Giles, Alexander) (Entered: 06/14/2011)
06/15/2011	<u>48</u>	SCHEDULING ORDER STAYING actions WMN-09-cv-217 and WMN-09-cv-218; EXTENDING Discovery deadline. Signed by Judge William M Nickerson on 6/15/11. Associated Cases: 1:09-cv-00217-WMN, 1:09-cv-00218-WMN(dass, Deputy Clerk) (Entered: 06/15/2011)
08/01/2011	<u>49</u>	STATUS REPORT <i>Jointly</i> by Potomac Navigation, Inc., United States Maritime Administration, United States Environmental Protection Agency. (Attachments: # <u>1</u> Text of Proposed Order)Associated Cases: 1:09-cv-00217-WMN, 1:09-cv-00218-WMN(Zawitoski, JoAnne) (Entered: 08/01/2011)
08/02/2011	50	PAPERLESS ORDER re (50 in 1:09-cv-00217-WMN)(49 in 1:09-cv-00218-WMN) Status Report, Approving request that these two actions are stayed and discovery is extended until 10/31/11 filed by Potomac Navigation, Inc., United States Maritime Administration, United States Environmental Protection Agency. Signed by Judge William M Nickerson on 8/2/11. (cae, Chambers) (Entered: 08/02/2011)
10/04/2011	<u>51</u>	STATUS REPORT by United States Environmental Protection Agency. (Attachments: # <u>1</u> Text of Proposed Order)(Adams, Larry) (Entered: 10/04/2011)
10/05/2011	52	PAPERLESS ORDER re <u>51</u> Status Report filed by United States Environmental Protection Agency Approving request to continue stay and extending discovery cutoff until December 15, 2011. Signed by Judge William M Nickerson on 10/5/11. (cae, Chambers) (Entered: 10/05/2011)
12/09/2011	<u>53</u>	STATUS REPORT by United States Environmental Protection Agency. (Attachments: # <u>1</u> Text of Proposed Order)(Adams, Larry) (Entered: 12/09/2011)
12/12/2011	<u>54</u>	(FILED IN ERROR)RESPONSE in Opposition to <i>Plaintiff's Request for Additional Discovery</i> by United States Environmental Protection Agency. (Adams, Larry) Modified on 12/13/2011 (aos, Deputy Clerk). (Entered: 12/12/2011)
12/12/2011	<u>55</u>	RESPONSE in Opposition to <i>Plaintiff's Request for Additional Discovery</i> by United States Environmental Protection Agency. (Attachments: # <u>1</u> Exhibit Declaration of Peter Gimlin)(Adams, Larry) (Entered: 12/12/2011)
12/12/2011	<u>56</u>	MOTION to Dismiss by United States Environmental Protection Agency Responses due by 12/30/2011 (Adams, Larry) (Entered: 12/12/2011)

12/15/2011	<u>57</u>	STATUS REPORT (<i>Revised</i>) by United States Environmental Protection Agency. (Attachments: # <u>1</u> Text of Proposed Order)(Adams, Larry) (Entered: 12/15/2011)
12/20/2011	<u>58</u>	Correspondence re: Revised Status Report filed on December 15, 2011 (Adams, Larry) (Entered: 12/20/2011)
12/23/2011	59	PAPERLESS ORDER re: (58) granting Environmental Protection Agency's request to withdraw its response in opposition to plaintiff's request for additional discovery (55); granting Environmental Protection Agency's request to withdraw its motion to dismiss (56); and granting the parties' request to extend discovery until 2/15/2012 (57). Signed by Judge William M Nickerson on 12/23/11. Associated Cases: 1:09-cv-00218-WMN, 1:09-cv-00217-WMN(cae, Chambers) (Entered: 12/23/2011)
02/15/2012	<u>60</u>	STATUS REPORT by United States Environmental Protection Agency. (Attachments: # <u>1</u> Text of Proposed Order)(Adams, Larry) (Entered: 02/15/2012)
02/16/2012	61	PAPERLESS ORDER re <u>60</u> Status Report filed by United States Environmental Protection Agency granting request to refer this case to a magistrate judge for settlement conference and to stay the case pending the outcome of the settlement conference.. Signed by Judge William M Nickerson on 2/16/12. (cae, Chambers) (Entered: 02/16/2012)
02/16/2012	<u>62</u>	ORDER REFERRING CASE to Magistrate Judge Stephanie A Gallagher for Settlement. Signed by Judge William M Nickerson on 2/16/12 (cag, Deputy Clerk) (Entered: 02/16/2012)
02/28/2012	<u>63</u>	ORDER Scheduling Settlement Conference. Signed by Magistrate Judge Stephanie A Gallagher on 2/28/2012. (aos, Deputy Clerk) (Entered: 02/28/2012)
06/11/2012	<u>64</u>	Correspondence re: Settlement Conference scheduled for June 25, 2012. (Adams, Larry) (Entered: 06/11/2012)
06/14/2012	<u>65</u>	Correspondence re: Settlement Conference scheduled for June 25, 2012. (Adams, Larry) (Entered: 06/14/2012)
06/21/2012		Telephone Conference re: Settlement Negotiations held on 6/21/2012 before Magistrate Judge Stephanie A Gallagher. (aos, Deputy Clerk) (Entered: 06/25/2012)
06/25/2012		Settlement Conference held on 6/25/2012 before Magistrate Judge Stephanie A Gallagher. (aos, Deputy Clerk) (Entered: 06/25/2012)